

CONTINGENT EXTENSION REQUEST

If this Communication is filed after the shortened statutory time period had elapsed and no separate Petition is enclosed, the Commissioner of Patents and Trademarks is petitioned, under 37 C.F.R. § 1.136(a), to extend the time for filing a response to the outstanding Office Action by the number of months which will avoid abandonment under 37 C.F.R. § 1.135. The fee under 37 C.F.R. § 1.17 should be charged to our Deposit Account No. 50-2215, under Order No. L7350.0010.

REMARKS/ARGUMENTS

Claim 10 is pending in the subject application. Accordingly, upon entry of this Communication, claim 10 will still be pending and under examination.

In view of the remarks/arguments set forth below, applicant maintains that the grounds of the Examiner's rejection made in the December 5, 2008 Final Office Action have been overcome, and respectfully requests that the Examiner reconsider and withdraw these grounds of rejection.

Claim Rejection Under 35 U.S.C. § 102(b) (Novelty)

The Examiner rejected claim 10 under 35 U.S.C. § 102(b) as allegedly being anticipated by Wang et al. (Oncogene, 1997, Vol. 15, pages 143-157).

In response to the Examiner's rejection, applicant respectfully traverses.

Applicant reiterates that Wang et al. does not expressly or inherently describe each and every element of claim 10, as amended. For example, amended claim 10 recites "transporting BRCA1 from a nucleus to cytoplasm" and "wherein the co-expression of

BRCA1 and CDK2-cyclin E and/or CDK2-cyclin A transports BRCA1 from the nucleus to cytoplasm." Nowhere does Wang et al. describe either of these elements.

The Examiner states that "[s]ince Wang, et al. teach BRCA1 and cyclin A are associated with each other, they are co-expressed." December 5, 2008 Final Office Action, page 4, 3rd para. However, applicant respectfully points out that Wang et al. does not support the Examiner's interpretation that the term "association," as used in Wang et al., equates to "co-expression." For example, Wang et al. teaches via Western blot analysis that BRCA1 interacting proteins ("BIP") associate with cyclin A, but *do not associate* with cyclin E. See, e.g., Wang et al., Abstract and page 151, 2nd col. Yet, in the present invention, the *co-expression* of BRCA1 and either (1) CDK2-cyclin E or (2) CDK2-cyclin E and CDK2-cyclin A leads to transportation of BRCA1 from a nucleus to cytoplasm. Additionally, applicant notes that the term "association" used in Wang et al. is limited to whether direct physical binding occurs between particular E2Fs or cyclin/CDKs and GST-BRCA1 fusion proteins immobilized on glutathione beads (*see* Figure 4 of Wang et al.), or between BRCA1a or BRCA1b proteins and GST-cyclin A (*see* Figure 5 of Wang et al.). Nowhere does Wang et al. suggest or teach that the term "association" should be equated to "co-expression."

Further, Wang et al. does not disclose or teach that co-expression of BRCA1 and CDK2-cyclin E and/or CDK2-cyclin A leads to transportation of BRCA1 from a nucleus to cytoplasm. Rather, the work of the applicant, as described in the subject application, was the first to reveal this phenomenon.

Therefore, in view of the above arguments, applicant maintains that claim 10 satisfies the requirements of 35 U.S.C. § 102(b).

Conclusion

In light of all of the foregoing, it is respectfully submitted that this application is now in condition to be allowed and the issuance of a Notice of Allowance is respectfully solicited.

If a telephone conference would be of assistance in advancing prosecution of the subject application, applicant's undersigned attorney invites the Examiner to telephone her at the number provided below.

Dated: February 25, 2008

Respectfully submitted,

By 

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